


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

FILED

AUG 04 2008


CLERK

UNITED STATES OF AMERICA,)	CR. 08-50035
)	
Plaintiff,)	
)	ORDER
vs.)	
)	
JONATHAN McCARTY,)	
)	
Defendant.)	

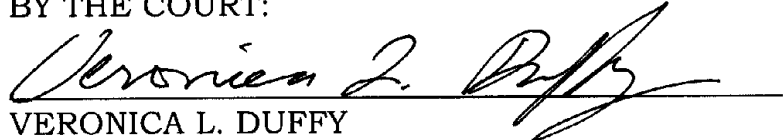
A suppression hearing is scheduled in this case for Friday, August 22, 2008. Defendant Jonathan McCarty moves the court to waive his personal appearance at the suppression hearing. [Docket 18]. The government does not object to Mr. McCarty's motion. This court finds that, although Mr. McCarty has a right to be present at the suppression hearing where testimony is taken, he may voluntarily waive this right by executing a valid waiver prior to the date of the suppression hearing. See United States v. Hurse, 477 F.2d 31, 33 (8th Cir. 1973); United States v. Dalli, 424 F.2d 45, 48 (2d Cir.1970). Accordingly, it is hereby

ORDERED that Mr. McCarty shall personally appear at the suppression hearing unless he executes a valid waiver of personal appearance prior to the

date of the hearing. The waiver shall be in the form of the proposed waiver attached to the brief submitted in support of his motion. See Docket 19-2. If the waiver is validly and timely executed, the court shall grant Mr. McCarty's motion to waive his personal appearance at the suppression hearing.

Dated August 4, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Veronica L. Duffy", is written over a horizontal line.

VERONICA L. DUFFY
UNITED STATES MAGISTRATE JUDGE